

## REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested. Claims 29-35 and 49-58 are pending in the present application.

### 1. **35 U.S.C. § 103(a)**

The Office Action rejected all pending claims under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,717,374 to Smith ("*Smith*") in view of U.S. Patent No. 6,108,673 to Brandt, *et al.* ("*Brandt*"). Applicant respectfully traverses this rejection for at least the reasons set forth below.

*Brandt* may not be used to form the basis of an obviousness rejection because it is not prior art. *Brandt* was filed on February 25, 1997. The present application is a divisional of patent application no. 08/896,988 filed on July 18, 1997. Applicant has previously filed an affidavit pursuant to 37 C.F.R. § 1.131 on March 24, 2003, establishing a date of invention at least as early as October 21, 1996. Accordingly, *Brandt* may not be used as prior art to form the basis of any rejection of the present application.

Nonetheless, *Smith* fails to disclose the elements set forth in the pending claims, as explained by several responses previously submitted by Applicant regarding *Smith*, all of which are hereby incorporated by reference as if set forth verbatim herein. To summarize, Applicant has previously illustrated that *Smith* does not teach or suggest providing a consumer with an enhanced interactive interface in the form of a browser executed as a thin client using markup language to present hypertext links to the

consumer to allow the consumer to interactively manage navigation within the browser to make purchasing decisions at a fixed-location fuel dispenser. Applicant respectfully maintains its previous arguments that *Smith* fails to disclose a number of elements of the claimed invention. The Office Action acknowledges that *Smith* is deficient in teaching all elements of the claimed invention.

The Office Action, however, attempts to use *Brandt* in an effort to overcome the deficiencies of *Smith*. As set forth above, *Brandt* is not prior art. Nevertheless, *Brandt* fails to remedy the deficiencies of *Smith* with regard to the pending claims. *Brandt* does not teach or suggest providing a consumer with an enhanced interactive interface in the form of a browser executed as a thin client using markup language to present hypertext links to the consumer to allow the consumer to interactively manage navigation within the browser to make purchasing decisions at a fixed-location fuel dispenser.

*Brandt* is directed to a method and apparatus “for creating a form from a template that includes replication blocks, that replicates at least one field in at least one replication block characterized by a block name to generate at least first and second replicated fields; modifies the block name to generate a first field name; modifies the block name to generate a second field name; associates the field names with respective ones of the first and second replicated fields; counts the number of replications; and transmits the number of replications to at least one client computer.” *Brandt*, col. 6, line 63 – col. 7, line 5.

Among other elements, *Brandt* does not disclose providing an interactive graphical user interface at a fixed-location fueling position on a fuel dispenser. Furthermore, *Brandt* does not disclose prompting the customer to select a service with the displayed information, receiving a response from the customer identifying a selected service to be provided by the server, and transmitting the selected service from the server over the network to the fixed-location fueling position based on the customer response at the fixed-location fueling position.

Accordingly, both *Smith* and *Brandt* fail to disclose multiple elements found within the pending claims. Moreover, there is no suggestion or motivation within either *Smith* or *Brandt* to combine one with the other. Additionally, there is no reason to combine the system disclosed in *Brandt* with the system disclosed in *Smith*, and the Office Action did not present a suggestion, motivation, or even a reason to combine the two. Furthermore, *Smith* and *Brandt* are non-analogous art. *Smith* is directed to inputting messages to a vehicle while the vehicle is coupled to a refueling station, while *Brandt* is directed to a system for communicating with transient server programs. *Smith*, abstract; *Brandt*, col. 2, lines 45-47.

*Brandt* seeks to provide a system that allows newer clients to communicate with transient, outdated servers without returning to the rudimentary interface used to access these mainframes. *Brandt*, col. 1, lines 58-62; col. 2, lines 14-19 & 45-47. That is, *Brandt* attempts to allow updated clients to connect to servers of old, transaction-based computer models. *Brandt*, col. 1, lines 43-62; col. 2, lines 14-19. In contrast, *Smith* is

directed to a mechanism to enable an information flow between an occupant of a vehicle and an external source or recipient of information. *Smith*, col. 1, lines 34-36. The system disclosed in *Smith* is not a transient, transaction-based system. Combining the system disclosed in *Brandt* would have no benefit and no effect on the system disclosed in *Smith*, or vice versa.

## **2. Conclusion**

As set forth above, *Brandt*, one of the two references relied on in the Office Action, is not prior art to the present invention. In addition, the claimed invention is not obvious in view of *Smith* and *Brandt*. As all outstanding issues have been addressed, Applicant respectfully requests favorable action by the Examiner and withdrawal of the cited rejections. The Examiner is invited to contact the undersigned in an effort to discuss and resolve any remaining issues.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH, LLP.

/s/ Jeremy C. Whitley /

Jeremy C. Whitley

Registration No. 58,775

ip@nelsonmullins.com

1320 Main Street | Suite 1700

Columbia, South Carolina 29201

Office: (803) 255-9764

Fax: (803) 255-9831